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Original via FedEx-Copy via Electronic Mail

July 26, 2019

Mr. Charles Maguire, Director
Water Quality Protection Division (6WD)
U. S. Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, Texas 75202

Re: State Certification

Dear Mr. Maguire:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit NM0031216 Kirtland Air Force Base Bulk Fuels Facility.

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above-referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*], the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the NMED web site at <https://www.env.nm.gov/surface-water-quality/public-notices/> on March 23, 2019. The public comment period ended on July 12, 2019. NMED received no comments directly, but was copied on comments to EPA by United States Air Force and Bernalillo County.

Sincerely,

/s/Shelly Lemon

Shelly Lemon,
Bureau Chief
Surface Water Quality Bureau

cc: (w/ enclosures)

Ms. Evelyn Rosborough, USEPA (6WDPN) via e-mail

Mr. Brent Larsen, USEPA (6WDPE) via e-mail

Mr. Quang Nguyen, USEPA (6WDPE) via e-mail

Colonel David S. Miller, 377th Air Base Wing, 2000 Wyoming Blvd SE, Kirtland AFB NM 87117

Mr. Steven Quezada, Bernalillo County, One Civic Plaza NW, 10th Floor, Suite 10111, Albuquerque, NM 87102

Ms. Charlene Pyskoty, Bernalillo County, One Civic Plaza NW, 10th Floor, Suite 10111, Albuquerque, NM 87102

Pueblo of Isleta, P.O. Box 1270, Isleta, NM 87022

Mr. David Gray, Acting Regional Administrator
Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, TX 75202

July 26, 2019

STATE CERTIFICATION

RE: NM0031216 Kirtland Air Force Base Bulk Fuels Facility

Dear Mr. Gray:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- ☒ (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- ☐ () certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- ☐ () denies certification for the reasons stated in the attachment
- ☐ () waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

/s/Shelly Lemon

Shelly Lemon
Bureau Chief
Surface Water Quality Bureau

Kirtland Air Force Base Bulk Fuels Facility
State Comments on the Proposed NPDES Permit
NM0031216
July 26, 2019

The following revisions are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico water quality standards (WQS) adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [NMSA 1978, §§ 74-6-1 to -17]. State of New Mexico (State) WQS are published in the document entitled Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission (WQCC), 20.6.4 New Mexico Administrative Code (NMAC) as amended by the WQCC and approved by the United States Environmental Protection Agency (EPA or USEPA) as of August 11, 2017.

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that permit *limitations must control all pollutants or pollutant parameters... which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard...*

40 CFR Part 124.53(e) states that: *State certification shall be in writing and shall include: (1) Conditions which are necessary to assure compliance with the applicable provisions of CWA Sections 208, 301, 302, 303, 306 and 307 and with appropriate requirements of State law...*

State law (NM Standards for Interstate and Intrastate Waters at 20.6.4 NMAC) states:

20.6.4.13.F NMAC: *Except as provided in 20.6.4.16 NMAC, surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, concentrations or combinations that affect the propagation of fish or that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitations or aquatic organisms for food, or that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms.*

Conditions of Certification:

1. none

Comments that are not Conditions of Certification:

1. The New Mexico Implementation Procedure (NMIP) considers the type of facility as well as the ephemeral nature of the watercourse when determining the frequency of WET testing. USAF submitted WET testing results during the comment period that indicated 95% survivability of invertebrate at 100% effluent. NMED has not yet received Reasonable Potential (RP) results from EPA, but if the WET testing monitoring results indicate RP, the 1/year monitoring requirement from the NMIP should apply.
2. If monitoring submitted during the public comment period showed no RP for the required human health constituents, NMED supports removal of 3x week monitoring for those pollutants. Otherwise, the permit does not include a specific restriction on how long of a time the facility may discharge as an intermittent discharge and therefore includes monitoring requirements from the NMIP for daily discharge. Testing is only required in the case that the discharge occurs to the watercourse. Groundwater requirements are not relevant to the proposed surface water discharge.
3. NMED requests that EPA retain the monitoring requirement for per- and polyfluoroalkyl substances (PFAS) in the permit. Sources of PFAS such as Aqueous Film Forming Foam (AFFF) were present at KAFB in the past. Though the USAF states PFAS is not present in the effluent, they did not submit any documentation that the influent or treated discharge has been sampled for PFAS and that those

potential contaminants are not present. Inclusion of a monitoring requirement will provide information about whether these contaminants are present. Due to the characteristics of these contaminants (persistence in the environment and the human body, and evidence that exposure to PFAS can lead to adverse human health effects), NMED advocates taking a proactive approach to assuring the health and safety of the Tijeras Arroyo and the Rio Grande. If a limitation is needed based on monitoring data, NMED will work with EPA according to regulations provided in 20.6.4 NMAC and the New Mexico Implementation Plan (NMIP) to develop an appropriate and protective limitation for inclusion in the permit.